

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Samuel H. Christie, IV

Examiner: Nguyen, Quynh H.

Serial No. 10/628,180

Art Unit: 2614

Filed: 07/28/2003

For: **AUDIO CALL SCREENING FOR HOSTED VOICEMAIL SYSTEMS**

Mail Stop Appeal Brief – Patents

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

An **APPEAL BRIEF** is filed herewith. Appellant encloses a payment in the amount of \$670.00 as required by 37 C.F.R. § 1.17(b) to cover the fee associated with this Appeal Brief and with a One-month Extension of Time and requests that this be considered a petition therefor. If any additional fees are required in association with this appeal brief, the Director is hereby authorized to charge them to Deposit Account 14-1315, and consider this a petition therefor.

**APPEAL BRIEF**

**(1) REAL PARTY IN INTEREST**

The real party in interest is the assignee of record, i.e., Nortel Networks Limited of 2351 Boulevard Alfred-Nobel, St. Laurent, Quebec Canada H4S 2A9, which is wholly owned by Nortel Networks Corporation, a Canadian corporation.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences to the best of Appellant's knowledge.

**(3) STATUS OF CLAIMS**

Claims 1-19 and 21-33 were rejected with the rejection made final on March 2, 2009.

Claim 20 was previously cancelled.

Claims 1-19 and 21-33 are pending and are the subject of this appeal.

**(4) STATUS OF AMENDMENTS**

All amendments have been entered to the best of Appellant's knowledge. No amendments have been filed after the Final Office Action mailed March 2, 2009.

## **(5) SUMMARY OF CLAIMED SUBJECT MATTER**

In the following summary, Appellant has noted where in the Specification certain subject matter exists. Appellant wishes to point out that these citations are for demonstrative purposes only and that the Specification may include additional discussion of the various elements, citations to which are not pointed out below. Thus, the noted citations are in no way intended to limit the scope of the pending claims.

Appellant provides a brief summary of the claimed invention so that the remarks are considered in the proper context. The claimed invention is designed to facilitate monitoring of a hosted voicemail system (Specification, paragraphs 0003 and 0015). Meaning, even though the hosted voicemail system is not directly associated with any customer device, the user may listen as voice messages are being left in the voicemail system and may interrupt the message to answer the call. *Ibid.* One embodiment includes wherein the calls are initially directed to the voicemail system and then the telephone terminal is alerted to the existence of the incoming call that the called party may wish to monitor (Specification, paragraphs 0019-0021; see also Figure 3). The voicemail system of a service provider, according to the claimed invention, may be configured to provide the functionality of a conventional answering machine. The user may listen to the voicemail message being left by the caller as the voicemail message is being recorded (Specification, paragraphs 0003, 0017, and 0019-0021). At any time during the recording of the voicemail message, the user may engage the call and begin conversing with the caller. *Ibid.*

Independent claim 1 recites a method for allowing call screening in a hosted voicemail system environment comprising:

directing a call to a hosted voicemail system (such as VMS 18, Figures 1-6 and 8), which serves as a voicemail system for a telephone terminal (such as telephone terminal 16, Figures 1-5 and 7), wherein the call is initially directed to the hosted voicemail system before being directed to the telephone terminal (Specification, paragraphs 0003, 0015, 0017, 0019-0021, and 0025-0028; see also Figures 1, 3, and 6-8); and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system (Specification, paragraphs 0003, 0015, 0017, 0019-0021, and 0025-0028; see also Figures 1, 3, and 6-8).

Independent claim 17 recites a system for allowing call screening in a hosted voicemail system environment comprising:

means (such as switch 14, Figures 1-5 and 8) for directing a call to a hosted voicemail system (such as VMS 18, Figures 1-6 and 8), which serves as a voicemail system for a telephone terminal (such as telephone terminal 16, Figures 1-5 and 7) (Specification, paragraphs 0003, 0015-0017, 0019, 0022, 0023, and 0027; see also Figures 1-5 and 8);

means (such as switch 14, Figures 1-5 and 8) for sending a first signal to the telephone terminal to open a speaker channel without user interaction with the telephone terminal (Specification, paragraphs 0003, 0017, 0020, 0021, 0023, 0026, and 0027; see also Figures 1-5 and 8); and

means (such as switch 14, telephone terminal 16, and VMS 18, Figures 1-8) for allowing the telephone terminal to monitor a message being left in the hosted voicemail system (Specification, paragraphs 0003 and 0015-0028; see also Figures 1-8).

Independent claim 33 recites a method for allowing call screening in a hosted voicemail system environment comprising:

detecting an incoming call intended for a telephone terminal (such as telephone terminal 16, Figures 1-5 and 7) (Specification, paragraphs 0003, 0015, 0017, 0019, and 0021-0023; see also Figures 1-5);

forwarding the incoming call to a hosted voicemail system (such as VMS 18, Figures 1-6 and 8), which serves as a voicemail system for the telephone terminal, without attempting to establish a connection to the telephone terminal (Specification, paragraphs 0003, 0015, 0019-0021, and 0026-0028; see also Figures 1, 3, and 6-8);

upon answering the incoming call at the hosted voicemail system, initiating a new call to the telephone terminal such that the incoming call and the newly initiated call are effectively connected (Specification, paragraphs 0003, 0019-0021, and 0026-0028; see also Figures 1, 3, and 6-8); and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system (Specification, paragraphs 0003, 0015, 0017, 0019-0021, and 0025-0028; see also Figures 1, 3, and 6-8).

## **(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

**A.** Whether claims 1-16 and 33 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,245,713 B1 to Simpson et al. (hereinafter “Simpson”) in view of U.S. Patent No. 6,215,857 B1 to Kasiviswanathan (hereinafter “Kasiviswanathan”).

**B.** Whether claims 17-19 and 21-32 were properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Simpson in view of Kasiviswanathan and further in view of U.S. Patent Application Publication No. 2004/0096046 A1 to Lektion et al. (hereinafter “Lektion”).

## **(7) ARGUMENT**

### **A. Introduction**

The Patent Office has not shown where all the elements of the pending claims are shown in the prior art with sufficient particularity to sustain an obviousness rejection. In particular, the Patent Office has not shown where the cited prior art of Simpson and Kasiviswanathan discloses that the call is initially directed to the hosted voicemail system before being directed to the telephone terminal, as recited in independent claim 1. Independent claims 17 and 33 recite similar limitations, which are also not taught or suggested by the combination of Simpson and Kasiviswanathan. In addition, the combination of Simpson and Kasiviswanathan is improper because both Simpson and Kasiviswanathan teach away from each other and the claimed invention, and because the proposed combination would render both Simpson and Kasiviswanathan unsatisfactory for their respective intended purposes. As such, Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow the claims for these reasons along with the reasons noted below.

### **B. Summary Of References**

#### **1. U.S. Patent No. 7,245,713 B1 To Simpson**

Simpson is directed to methods and systems for monitoring calls routed to a telephone network-based voicemail system (Simpson, Abstract). When a subscriber receives a telephone call, a determination is made as to whether the call should be routed to the voicemail system. *Ibid.* If call monitoring services are activated, a three-way communication is set up between the calling party, the voicemail system and the subscriber. *Ibid.* The subscriber is bridged into the call on a listen-only basis, but upon command by the subscriber, the subscriber may answer the

call. *Ibid.* In Simpson, the incoming call is initially directed to the telephone terminal and is only directed to the voicemail system after the call is not answered or the terminal is busy (see Simpson, col. 1, lines 56-63; see also Fig. 2, steps 210, 215, and 220).

## **2. U.S. Patent No. 6,215,857 B1 To Kasiviswanathan**

Kasiviswanathan is directed to a telecommunications system and method for enabling a calling subscriber to invoke the forwarding of a call to a voicemail system for the called subscriber on a call-by-call basis in order to leave a message for the called subscriber without disturbing (ringing) the called subscriber (Kasiviswanathan, Abstract). The associated disadvantage with this “Direct Voice Mail Access” (DVMA) feature is that the called party will lose control over his/her call forwarding to voicemail features for that particular call. *Ibid.* Therefore, in order to overcome this disadvantage, another feature, “Direct Voice Mail Access Blocking” (DVMAB) can be implemented to allow the called subscriber to inhibit direct access to their voicemail by the calling subscriber. *Ibid.* Kasiviswanathan discloses that the call is forwarded directly to the voicemail without ringing the called subscriber (Kasiviswanathan, col. 2, lines 64-67; and col. 4, lines 55-58). However, Kasiviswanathan does not teach that the call is initially directed to the voicemail system and is then later directed to the telephone terminal. In fact, the whole goal of Kasiviswanathan is to avoid disturbing the called party (Kasiviswanathan, col. 2, lines 64-67). Thus, the call in Kasiviswanathan is only sent to the voicemail system and is not later directed to the telephone terminal.

## **3. U.S. Patent Application Publication No. 2004/0096046 A1 To Lektion**

Lektion discloses a call screening system and method (Lektion, Abstract). The method can include receiving an inbound telephone call destined for a called party. *Ibid.* Associated caller identification data can be identified from the inbound telephone call. *Ibid.* The associated caller identification data can be compared to a filter list of caller identification data. *Ibid.* Finally, based upon the comparison, call management rules can be applied to the inbound call to manage the inbound call by either deferring the inbound call to voicemail, or automatically answering the inbound call without requiring pro-active intervention by the called party. *Ibid.*

### **C. Legal Standards For Establishing Obviousness**

Section 103(a) of the Patent Act provides the statutory basis for an obviousness rejection and reads as follows:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Courts have interpreted 35 U.S.C. § 103(a) as a question of law based on underlying facts. As the Federal Circuit stated:

Obviousness is ultimately a determination of law based on underlying determinations of fact. These underlying factual determinations include: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) the extent of any proffered objective indicia of nonobviousness.

*Monarch Knitting Mach. Corp. v. Sulzer Morat GmBH*, 45 U.S.P.Q.2d (BNA) 1977, 1981 (Fed. Cir. 1998) (internal citations omitted).

Once the scope of the prior art is ascertained, the content of the prior art must be properly combined. “Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demand known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006). (“[R]jections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).” *KSR Int’l v. Teleflex, Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d (BNA) 1385, 1396 (2007).

While the Patent Office is entitled to give claim terms their broadest reasonable interpretation, this interpretation is limited by a number of factors. First, the interpretation must be consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000); M.P.E.P. § 2111. Second, the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, (Fed. Cir. 1999); M.P.E.P. § 2111. Finally, the interpretation must be reasonable. *In re Am.*

*Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004); M.P.E.P. § 2111.01. This means that the words of the claim must be given their plain meaning unless Appellant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989).

When rejecting a claim under § 103, the Patent Office must either show that the prior art references teach or suggest all limitations of the claim or explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. Examination Guidelines for Determining Obviousness Under 35 U.S.C. § 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*, published in the Federal Register, Vol. 72, No. 195, pages 57526-57535. The gap between the prior art and the claimed invention may not be “so great as to render the [claim] nonobvious to one reasonably skilled in the art.” *Dann v. Johnston*, 425 U.S. 219, 230, 189 U.S.P.Q.(BNA) 257, 261 (1976). Moreover, the prior art references must be considered in their entirety, i.e., as a whole, including portions that would lead away from the claimed invention. M.P.E.P. § 2142.02, citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q.(BNA) 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). In addition, if the proposed combination would render one of the prior art inventions being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed combination. M.P.E.P. § 2143.01, citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

If a claim element is missing after the combination is made, then the combination does not render obvious the claimed invention, and the claims are allowable. As stated by the Federal Circuit, “[if] the PTO fails to meet this burden, then Appellant is entitled to the patent.” *In re Glaug*, 283 F.3d 1335, 1338 (Fed. Cir. 2002).

#### **D. Claims 1-16 and 33 Are Patentable Over Simpson In View Of Kasiviswanathan**

Claims 1-16 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Simpson in view of Kasiviswanathan. Appellant submits that neither Simpson nor Kasiviswanathan, either alone or in combination, discloses or suggests all the features recited in claims 1-16 and 33. Moreover, the combination of Simpson and Kasiviswanathan is improper because both Simpson and Kasiviswanathan teach away from each other and the claimed invention, and because the proposed combination would render both Simpson and Kasiviswanathan unsatisfactory for their respective intended purposes.

**1. Neither Simpson Nor Kasiviswanathan Teaches That A Call Is Initially Directed To The Voicemail System Before Being Directed To The Telephone Terminal**

Claim 1 recites a method for allowing call screening in a hosted voicemail system environment comprising:

directing a call to a hosted voicemail system, which serves as a voicemail system for a telephone terminal, wherein the call is initially directed to the hosted voicemail system before being directed to the telephone terminal; and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system.

Claim 1 recites that the call is initially directed to the hosted voicemail system before being directed to the telephone terminal. Claim 33 includes similar features. The combination of Simpson and Kasiviswanathan does not teach this limitation. Simpson shows the opposite situation from the claimed invention. In Simpson, the call is initially directed to the telephone terminal and is only directed to the voicemail system after the call is not answered or the terminal is busy (see Simpson, col. 1, lines 56-63; see also Fig. 2, steps 210, 215, and 220). The Patent Office admits that Simpson does not teach that the call is initially directed to the hosted voicemail system before being directed to the telephone terminal (Final Office Action mailed March 2, 2009, p. 3). However, the Patent Office asserts that Kasiviswanathan teaches a system where a call is initially directed to a hosted voicemail system before being directed to the telephone terminal. *Ibid.* Appellant respectfully disagrees.

Kasiviswanathan does not teach or suggest initially directing a call to the hosted voicemail system and **then to the telephone terminal**. Kasiviswanathan discloses that the call is forwarded directly to the voicemail system without ringing the called subscriber (Kasiviswanathan, col. 2, lines 64-67; and col. 4, lines 55-58). However, Kasiviswanathan does not teach that the call is initially directed to the voicemail system before being **directed to the telephone terminal**, as recited in the claimed invention. In fact, the whole goal of Kasiviswanathan is to avoid disturbing the called party (Kasiviswanathan, col. 2, lines 64-67). This is the opposite goal of the claimed invention, which initially directs the call to the hosted voicemail system before then directing the call to the telephone terminal to allow the telephone terminal to monitor a message being left in the hosted voicemail system. Due to the teaching in Kasiviswanathan that all calls should be forwarded directly to the voicemail system without



ringing the called party, the system of Kasiviswanathan would not allow the telephone terminal of the called party to monitor a message being left in the hosted voicemail system, as is done in the claimed invention. The call in Kasiviswanathan is only sent to the voicemail system and is not later directed to the telephone terminal. Since Kasiviswanathan only discloses that the call may be forwarded directly to the voicemail system, Kasiviswanathan does not teach or suggest that the call is initially directed to a hosted voicemail system **before being directed to the telephone terminal**, as recited in claim 1. Thus, Kasiviswanathan does not teach the element for which it is cited. The Patent Office has admitted that Simpson does not teach this element (Final Office Action mailed March 2, 2009, p. 3). Thus, even if Simpson were combined with Kasiviswanathan<sup>1</sup>, the incoming call would only be sent to the voicemail system and would not later be directed to the telephone terminal. Thus, it is clear that the combination of Simpson and Kasiviswanathan fails to teach or suggest “directing a call to a hosted voicemail system, which serves as a voicemail system for a telephone terminal, wherein the call is initially directed to the hosted voicemail system **before being directed to the telephone terminal**,” as recited in claim 1. Since the combination does not teach or suggest initially directing a call to a hosted voicemail system and then directing the call to the telephone terminal to facilitate audible call screening in association with a hosted voicemail system, *prima facie* obviousness has not been established. Thus, claim 1 is patentable.

Claims 2-16 depend from claim 1 and recite all the limitations of claim 1. As such, claims 2-16 are patentable for at least the same reasons set forth above with respect to claim 1.

Independent claim 33 recites similar limitations as those recited in claim 1 and is therefore patentable for at least the same reasons set forth above with respect to claim 1.

As such, Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow claims 1-16 and 33.

## **2. The Rejection Of Claims 1-16 And 33 Should Be Reversed Because The Combination Of Simpson And Kasiviswanathan Is Improper**

The rejection of claims 1-16 and 33 should also be reversed because the combination of Simpson and Kasiviswanathan is improper. Simpson discloses a system where calls that are first directed to a telephone terminal are forwarded to a voicemail system and a three-way call

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<sup>1</sup> Appellant respectfully submits that Simpson and Kasiviswanathan are not properly combined, as set forth in more detail below.

between the caller, the called party, and the voicemail system is set up so that the call may be monitored by the called party (Simpson, Abstract). Kasiviswanathan teaches away from Simpson and the claimed invention because Kasiviswanathan teaches that all calls should be forwarded directly to the voicemail system without ringing the called party so that the called party is not disturbed (Kasiviswanathan, Abstract). The Patent Office even uses this as the alleged motivation to combine the references, stating it would be obvious to combine the references “for the purpose of providing direct access by the calling party to the voice mail of the called party without disturbing the called party.” (Final Office Action mailed March 2, 2009, p. 3). Providing direct access to the voicemail such that the called party is not disturbed actually vitiates the purpose of Simpson and the claimed invention to allow the called party to monitor the voicemail message being left. If the call is never directed to the telephone terminal of the called party, it cannot be monitored by the telephone terminal. In fact, Kasiviswanathan recognizes that the direct access to voicemail is a disadvantage because the called party loses control (Kasiviswanathan, col. 1, lines 20-22). Since Simpson is concerned with the called party being able to monitor the call after it is routed to the voicemail system, Kasiviswanathan teaches away from Simpson because Kasiviswanathan teaches that the called party should not be disturbed and the call should never be directed to the called party (no ringing). Since Kasiviswanathan teaches away from Simpson, the combination of Simpson and Kasiviswanathan is improper. M.P.E.P. § 2141.02; *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

The combination is further improper because Simpson also teaches away from the claimed invention. Simpson discloses that the call is initially directed to the terminal of the called party, and is only forwarded to the voicemail system if the terminal is busy or does not answer (see Simpson, col. 1, lines 56-63; see also Fig. 2, steps 210, 215, and 220). Thus, Simpson teaches away from the present invention in which the call is initially directed to the hosted voicemail system. Since Simpson teaches away from the present invention, a person of ordinary skill in the art would not combine Simpson and Kasiviswanathan to reach the claimed invention. M.P.E.P. § 2141.02; *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

In addition, the combination of Simpson and Kasiviswanathan is also improper because if Simpson and Kasiviswanathan were combined, it would render both Simpson and

Kasiviswanathan unsatisfactory for their intended purposes. M.P.E.P. § 2143.01, citing *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q.(BNA) 1125 (Fed. Cir. 1984). As set forth above, the purpose of Simpson is to allow the called party to monitor the voicemail message being left. Forwarding a call directly to voicemail such that the called party is not disturbed as taught by Kasiviswanathan actually vitiates the purpose of Simpson to allow the called party to monitor the voicemail message being left. Likewise, the purpose of Kasiviswanathan is that all calls should be forwarded directly to the voicemail system without ringing the called party so that the called party is not disturbed. If the incoming call is directed to the telephone terminal of the subscriber, as taught in Simpson (see Simpson, col. 1, lines 56-63; see also Fig. 2, steps 210, 215, and 220), then the subscriber would be disturbed, and the purpose of Kasiviswanathan that the called party not be disturbed would be vitiated. Since the combination of Simpson and Kasiviswanathan would render both Simpson and Kasiviswanathan unsatisfactory for their intended purposes, then the combination is improper. M.P.E.P. § 2143.01, citing *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q.(BNA) 1125 (Fed. Cir. 1984).

For the above reasons, the proposed combination of Simpson and Kasiviswanathan is improper. Since the combination is improper, the rejection is improper and should be reversed.

**E. Claims 17-19 And 21-32 Are Patentable Over Simpson In View Of Kasiviswanathan And Further In View Of Lektion**

Claims 17-19 and 21-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Simpson in view of Kasiviswanathan and further in view of Lektion. Appellant respectfully traverses. The standards for obviousness are set forth above.

As set forth above, the combination of Simpson and Kasiviswanathan is not proper, and therefore the combination of Lektion with Simpson and Kasiviswanathan is also improper. Since the combination is improper, the rejection of claims 17-19 and 21-32 is improper and should be reversed for this reason alone.

In addition, the Patent Office rejected claim 17 for the same reasons that it rejected claim 1. As discussed above, the combination of Simpson and Kasiviswanathan does not teach each and every limitation of claim 1. Lektion does not cure the deficiencies of the combination of Simpson and Kasiviswanathan in this regard. Thus, Appellant respectfully submits that this rejection is improper and should be reversed for the reasons set forth above. As such, claim 17,

as well as claims 18, 19, and 21-32, which depend from claim 17, define patentable subject matter.

In addition, claims 18, 19, and 21-32 were rejected for the same reasons set forth for claims 2, 3, and 5-16, respectively (see Final Office Action mailed March 2, 2009, p. 7). Since claims 2, 3, and 5-16 were rejected over Simpson in view of Kasiviswanathan, the Patent Office is using Kasiviswanathan to reject claims 18, 19, and 21-32 as well. As set forth above, the combination of Simpson and Kasiviswanathan does not teach each and every limitation of the claimed invention. For at least the same reasons, the rejection of claims 18, 19, and 21-32 is improper as well.

As such, for the above reasons, Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow claims 17-19 and 21-32.

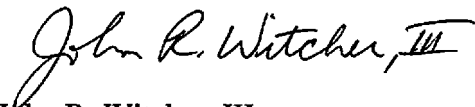
#### **F. Conclusion**

As set forth above, the Patent Office has not shown where all the elements of the pending claims are shown in the prior art with sufficient particularity to sustain an obviousness rejection. However, this is because the cited references do not disclose each and every feature of the claimed invention. In particular, the Patent Office has not shown where the prior art discloses that the call is initially directed to the hosted voicemail system before being directed to the telephone terminal, as recited in independent claim 1. In addition, the combination of Simpson and Kasiviswanathan is improper because both Simpson and Kasiviswanathan teach away from each other and the claimed invention, and because the proposed combination would render both Simpson and Kasiviswanathan unsatisfactory for their respective intended purposes. As such, Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow all pending claims 1-19 and 21-33.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

A handwritten signature in black ink, reading "John R. Witcher, III". The signature is written in a cursive style with a prominent "J" and "W".

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## **(8) CLAIMS APPENDIX**

1. A method for allowing call screening in a hosted voicemail system environment comprising:

directing a call to a hosted voicemail system, which serves as a voicemail system for a telephone terminal, wherein the call is initially directed to the hosted voicemail system before being directed to the telephone terminal; and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system.

2. The method of claim 1 further comprising allowing a user of the telephone terminal to take the call while the message is being left in the hosted voicemail system.

3. The method of claim 2 wherein the call is directed to the hosted voicemail system by a telephony switch supporting the telephone terminal and further comprising:

establishing a first connection to connect the call to the hosted voicemail system;

establishing a second connection with the telephone terminal; and

connecting the first and second connections.

4. The method of claim 3 further comprising sending a first signal to the telephone terminal to open a speaker channel.

5. The method of claim 4 further comprising receiving a second signal from the telephone terminal indicative of the user taking the call.

6. The method of claim 5 further comprising sending a third signal to the hosted voicemail system indicative of the user taking the call.

7. The method of claim 2 further comprising:

establishing a second call from the hosted voicemail system to the telephone terminal

upon the hosted voicemail system receiving the call; and

connecting the call and the second call,

wherein the telephone terminal will open a speaker channel upon receiving the second call to allow monitoring of the message.

8. The method of claim 7 further comprising receiving a signal at the hosted voicemail system indicating the user is taking the call.

9. The method of claim 8 further comprising effecting transfer of the call to the telephone terminal upon receiving the signal.

10. The method of claim 7 wherein the hosted voicemail system provides caller identification information related to the call with the second call.

11. The method of claim 2 further comprising:  
receiving a feature code from the telephone terminal; and  
establishing a connection between the call, the hosted voicemail system, and the telephone terminal to allow monitoring of the message via a speaker channel.

12. The method of claim 11 further comprising receiving a signal from the telephone terminal indicating the user is taking the call and establishing a connection to the telephone terminal to facilitate the call.

13. The method of claim 2 further comprising:  
establishing a second call from the telephone terminal to the voicemail system; and  
establishing a connection between the call and the second call to allow monitoring of the message via a speaker channel.

14. The method of claim 13 further comprising receiving a signal from the telephone terminal indicating the user is taking the call and establishing a connection to the telephone terminal to facilitate the call.

15. The method of claim 1 wherein the telephone terminal is adapted to automatically open a speaker channel for call screening.

16. The method of claim 1 further comprising sending a message to the hosted voicemail system to control processing of fragments of the messages resulting from call screening.

17. A system for allowing call screening in a hosted voicemail system environment comprising:

means for directing a call to a hosted voicemail system, which serves as a voicemail system for a telephone terminal;

means for sending a first signal to the telephone terminal to open a speaker channel without user interaction with the telephone terminal; and

means for allowing the telephone terminal to monitor a message being left in the hosted voicemail system.

18. The system of claim 17 further comprising means for allowing a user of the telephone terminal to take the call while the message is being left in the hosted voicemail system.

19. The system of claim 18 wherein the call is directed to the hosted voicemail system by a telephony switch supporting the telephone terminal after a select number of rings and further comprising:

means for establishing a first connection to connect the call to the hosted voicemail system;

means for establishing a second connection with the telephone terminal; and

means for connecting the first and second connections.

20. (Cancelled).

21. The system of claim 17 further comprising means for receiving a second signal from the telephone terminal indicative of the user taking the call.



22. The system of claim 21 further comprising means for sending a third signal to the hosted voicemail system indicative of the user taking the call.

23. The system of claim 18 further comprising:

means for forwarding incoming calls, including the call, from callers to the hosted voicemail system;

means for establishing a second call from the hosted voicemail system to the telephone terminal upon the hosted voicemail system receiving the call; and

means for connecting the call and the second call, wherein the telephone terminal will open a speaker channel upon receiving the second call to allow monitoring of the message.

24. The system of claim 23 further comprising means for receiving a signal at the hosted voicemail system indicating the user is taking the call.

25. The system of claim 24 further comprising means for effecting transfer of the call to the telephone terminal upon receiving the signal.

26. The system of claim 23 further comprising means for the hosted voicemail system to provide caller identification information related to the call with the second call.

27. The system of claim 18 further comprising:

means for attempting to connect the call to the telephone terminal prior to directing the call to the hosted voicemail system;

means for receiving a feature code from the telephone terminal; and

means for establishing a connection between the call, the hosted voicemail system, and the telephone terminal to allow monitoring of the message via a speaker channel.

28. The system of claim 27 further comprising receiving a signal from the telephone terminal indicating the user is taking the call and means for establishing a connection to the telephone terminal to facilitate the call.

29. The system of claim 18 further comprising:  
means for attempting to connect the call to the telephone terminal prior to directing the call to the hosted voicemail system;  
means for establishing a second call from the telephone terminal to the voicemail system;  
and  
means for establishing a connection between the call and the second call to allow monitoring of the message via a speaker channel.
30. The system of claim 29 further comprising means for receiving a signal from the telephone terminal indicating the user is taking the call and means for establishing a connection to the telephone terminal to facilitate the call.
31. The system of claim 17 further wherein the telephone terminal connected to the system is adapted to automatically open a speaker channel for call screening.
32. The system of claim 17 further comprising means for sending a message to the hosted voicemail system to control processing of fragments of the messages resulting from call screening.
33. A method for allowing call screening in a hosted voicemail system environment comprising:  
detecting an incoming call intended for a telephone terminal;  
forwarding the incoming call to a hosted voicemail system, which serves as a voicemail system for the telephone terminal, without attempting to establish a connection to the telephone terminal;  
upon answering the incoming call at the hosted voicemail system, initiating a new call to the telephone terminal such that the incoming call and the newly initiated call are effectively connected; and  
allowing the telephone terminal to monitor a message being left in the hosted voicemail system.

**(9) EVIDENCE APPENDIX**

The Appellant relies on no evidence, thus this appendix is not applicable.

**(10) RELATED PROCEEDINGS APPENDIX**

As there are no related proceedings, this appendix is not applicable.